

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESMOND ABERNATHY,
Petitioner

v.

THE COMMONWEALTH OF
PENNSYLVANIA,
Respondent

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CIVIL ACTION

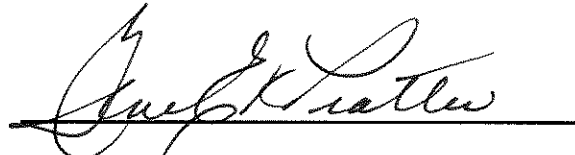
No. 21-1785

ORDER

AND NOW, this 5th day of April, 2022, upon consideration of the Petitioner Desmond Abernathy's Petition for Writ of Habeas Corpus (Doc. No. 1), Mr. Abernathy's Amended Petition (Doc No. 5), Mr. Abernathy's Motion to Vacate and Void the state court judgment (Doc. No. 6), United States Magistrate Judge Henry Perkin's Report and Recommendation (Doc. No. 12), and Mr. Abernathy's Objections (Docs. No. 13, 14), it is hereby **ORDERED** that:

1. The Report and Recommendation (Doc. No. 12) is **APPROVED** and **ADOPTED**;
2. Mr. Abernathy's Petition for Writ of Habeas Corpus (Docs. No. 1, 5) is **DISMISSED WITHOUT PREJUDICE** for failure to exhaust;
3. There is no probable cause to issue a certificate of appealability;
4. Mr. Abernathy's Motion to Vacate and Void the state court judgment (Doc. No. 6) is **DENIED**; and
5. The Clerk of Court shall mark this case **CLOSED** for all purposes, including statistics.

BY THE COURT:



GENE E.K. PRATTER
UNITED STATES DISTRICT JUDGE